



MORGANTOWN BOARD OF ZONING APPEALS

July 25, 2012
6:30 PM
City Council Chambers

Board Members:

Bernie Bossio, Chair
Leanne Cardoso, Vice-Chair
George Papandreas
Jim Shaffer
Tom Shamberger

STAFF REPORT

CASE NO: V12-23 / Glenmark Holding, LLC / 9 Sterling Drive

REQUEST and LOCATION:

Request by Michael Saab, of Glenmark Holding, LLC, for variance relief from Article 1353.04 as it relates to minimum setbacks and Article 1353.05 as it relates to minimum building height at 9 Sterling Drive.

TAX MAP NUMBER(s) and ZONING DESCRIPTION:

Tax Map 31, part of former Parcel 107; B-5, Shopping Center District

SURROUNDING ZONING:

B-5, Shopping Center District

BACKGROUND and ANALYSIS:

The petitioner seeks to construct a 6,000 square foot commercial strip building at 9 Sterling Drive. Addendum A of this report illustrates the location of the subject site.

Article 1353.04(A)(2) of the Planning and Zoning Code provides a minimum side setback standard of 30 feet for principal structures in the B-5 District. To meet minimum parking depth and internal roadway width standards and because of the narrowness of the parcel, the petitioner seeks to encroach into the north or left side yard by eight (8) feet, which require variance approval.

Article 1353.05(A) provides a minimum building height standard of twenty-five (25) feet for principal structures in the B-5 District. Due to the additional parking demand a second story would require on the smaller parcel, the petitioner's proposed building height is seventeen (17) feet, which requires variance relief of eight (8) feet.

STAFF RECOMMENDATION:

The Board of Zoning Appeals must determine whether the proposed request meets the standard criteria for a variance by reaching a positive determination for *each* of the "Findings of Fact" submitted by the petitioner.

Addendum B of this report provides Staff recommended revisions to the petitioner's findings of fact for Case No. V12-23 (deleted matter struck through; new matter underlined). Staff recommends approval of the variance as requested with no conditions.

Enclosures: Application and accompanying exhibits

Development Services

Christopher Fletcher, AICP
Director

Planning Division

389 Spruce Street
Morgantown, WV 26505
304.284.7431

STAFF REPORT ADDENDUM A
V12-23 / Glenmark Holding / 9 Sterling Drive



STAFF REPORT ADDENDUM B

V12-23 / Glenmark Holding, LLC / 9 Sterling Drive

Staff recommended revisions to petitioner's Findings of Fact (deleted matter struck through; new matter underlined)

Finding of Fact #1 – There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

~~N/A~~ The small, narrow lot appears to restrict the development of adequate parking depth and internal driveway width without encroaching modestly into the minimum side setback requirement as most of the parcels within the Earl Core Road commercial corridor are larger and wider to accommodate commercial structures and associated facilities and amenities. Additionally, a second story could functionally double the number of required parking spaces, which does not appear achievable on the relatively small parcel.

Finding of Fact #2 – The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

~~Zoning change. All surrounding properties are under the 25' height. It appears that the development pattern of commercial buildings along the Earl Core Road commercial corridor is primarily one-story. Additionally, it appears that most of the commercial area within this corridor is zoned B-2, which does not contain a minimum building height requirement and provides a minimum side setback standard between five (5) and twenty (20) feet.~~

Finding of Fact #3 – The granting of this variance not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

~~We are the adjacent property owner all-around said parcel. The proposed height and setback distance appears to be consistent to the predominant commercial development pattern within the Earl Core Road corridor.~~

Finding of Fact #4 – The granting of this variance not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

It is The proposed building height and setback distance appears to be consistent with the characteristics of all surrounding properties and the requested variance relief will not contribute to nor mitigate existing congestion along neighboring streets.



City of Morgantown, West Virginia

APPLICATION FOR ZONING VARIANCE

OFFICE USE	
CASE NO.	V12-23
RECEIVED:	6/14/12
COMPLETE:	

(PLEASE TYPE OR PRINT IN BLACK INK)

Fee: \$75

I. APPLICANT		Name:	Glenmark Holding Limited Liability Company			
Mailing Address:	Street	6 CANYON ROAD SUITE 300			Phone:	304-692-3369
	City	Morgantown	State	WV	Zip	26508
					Mobile:	304-692-6503
				Email:	msaab@glenmarkholding.com	
II. PROPERTY		Street Address:	9 STEELING DRIVE			
Owner:	Glenmark Holding Limited Liability Co.			Zoning:	B-5	
Mailing Address:	Street	6 CANYON ROAD SUITE 300			Tax Map No:	31
	City	Morgantown	State	WV	Zip	26508
					Parcel No:	PART OF 107
				Phone:		
III. NARRATIVE		Please describe the nature and extent of your variance request(s).				
<p>① AN 8 FOOT VARIANCE FROM THE MINIMUM SETBACK REQUIREMENT OF 30 FEET.</p> <p>② VARIANCE RELIEF FROM THE MINIMUM BUILDING HEIGHT OF 35'</p> <p>THE HEIGHT OF THE PROPOSED BUILDING IS 27'</p> <p>① ARTICLE 1353.04(A) (2)</p> <p>② ARTICLE 1353.05(A)</p>						
V. ATTEST						
<p>I hereby certify that I am the owner of record of the named property, or that this application is authorized by the owner of record and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. The granting of a variance does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction. I certify that the information submitted herein and attached hereto is true and accurate and understand that if found otherwise may result in the denial of this request or subsequent revocation of any and all related approvals. The undersigned has the power to authorize and does hereby authorize City of Morgantown representatives on official business to enter the subject property as necessary to process the application and enforce related approvals and conditions. I hereby authorize the Planning Department to erect a notification sign on the subject property approximately 15 days prior to the BZA hearing. I further agree to maintain said signage and hereby accept responsibility in case of destruction or removal.</p>						
MICHAEL J. SAAB		[Signature]		6/13/2012	16:16:43	
Type/Print Name of Applicant/Agent		Signature of Applicant/Agent		PAID	Date	

You or a representative **MUST** be present at the scheduled hearing to present the request and answer questions. Failure to appear at the hearing will result in your request being tabled.

27665



APPLICATION FOR ZONING VARIANCE

OFFICE USE	
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COMPLETE:	

VI. SUPPLEMENTAL INFORMATION

Depending on the type of variance request and the scale and scope of the development proposal, supplemental information may be needed to assist the Board of Zoning Appeals in rendering a variance decision. Staff will check the appropriate boxes below that must be addressed.

Land Use Characteristics (complete only those that apply)

- Residential
- Single-Family Dwelling
- Townhouse Dwelling
- Two-Family Dwelling
- Multi-Family Dwelling
- Non-Residential or Mixed (please explain)

Structure Characteristics (complete only those that apply)

Total number of buildings: 1 Gross floor area of each building: 6000 sq ft.
 Estimated number of employees: TBD No. of dwelling units: N/A No. of bedrooms: N/A
 Additional structure-related details:

Additional Information (as required by Staff):

Site Plan A scaled site plan may be required to assist the Board in rendering a variance decision. The following features must be represented, as required by Staff.

- Location, shape, exterior dimensions, and number of stories of each building on the site.
- Standard yard setbacks for the applicable zoning district
- Location, grade, and dimensions of paved surfaces, and all abutting streets
- Existing and proposed contours, at an interval of at least two (2) feet
- Complete traffic circulation plan showing dimensions, entrance/exit drives, planters, and similar improvements
- Location of landscaped areas (to be detailed on landscape plan), fences, walls, and other screen required

For simple variance requests (as determined by Staff), please use the graph area on the following page to illustrate applicable features listed above.



City of Morgantown, West Virginia

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Suggested Scale: 1 square = 5'

SEE ATTACHMENT
COMD



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VII. FINDINGS OF FACT

The Board of Zoning Appeals may grant a variance request only if each of the following "Findings of Fact" criteria is determined to be in the positive. Applicants must give their own responses to the following criteria statements.

1. There are exceptional or extraordinary circumstances or conditions applicable to this property or to the intended use, that generally do not apply to other properties or uses in the same vicinity, because:

N/A.

2. The variance is necessary for the preservation and enjoyment of a substantial property right that is possessed by other properties in the same vicinity and zoning district, but which denied to this property, because:

Zoning Change. All surrounding Properties are under the 25' height.

3. The granting of this variance will not be harmful to the public welfare and will not harm property or improvements in the vicinity and zoning district in which the subject property is located, because:

WE ARE THE ADJACENT Property owners ALL AROUND SAID Parcel.

4. The granting of this variance will not alter the land-use characteristics of the vicinity and zoning district, or diminish the market value of adjacent properties, or increase traffic congestion on public streets, because:

It is consistant with the Characteristics of all Surrounding Properties.

**STERLING COMMONS
 COMMERCIAL BUILDING**

Enter address here

SITE PLAN LAYOUT

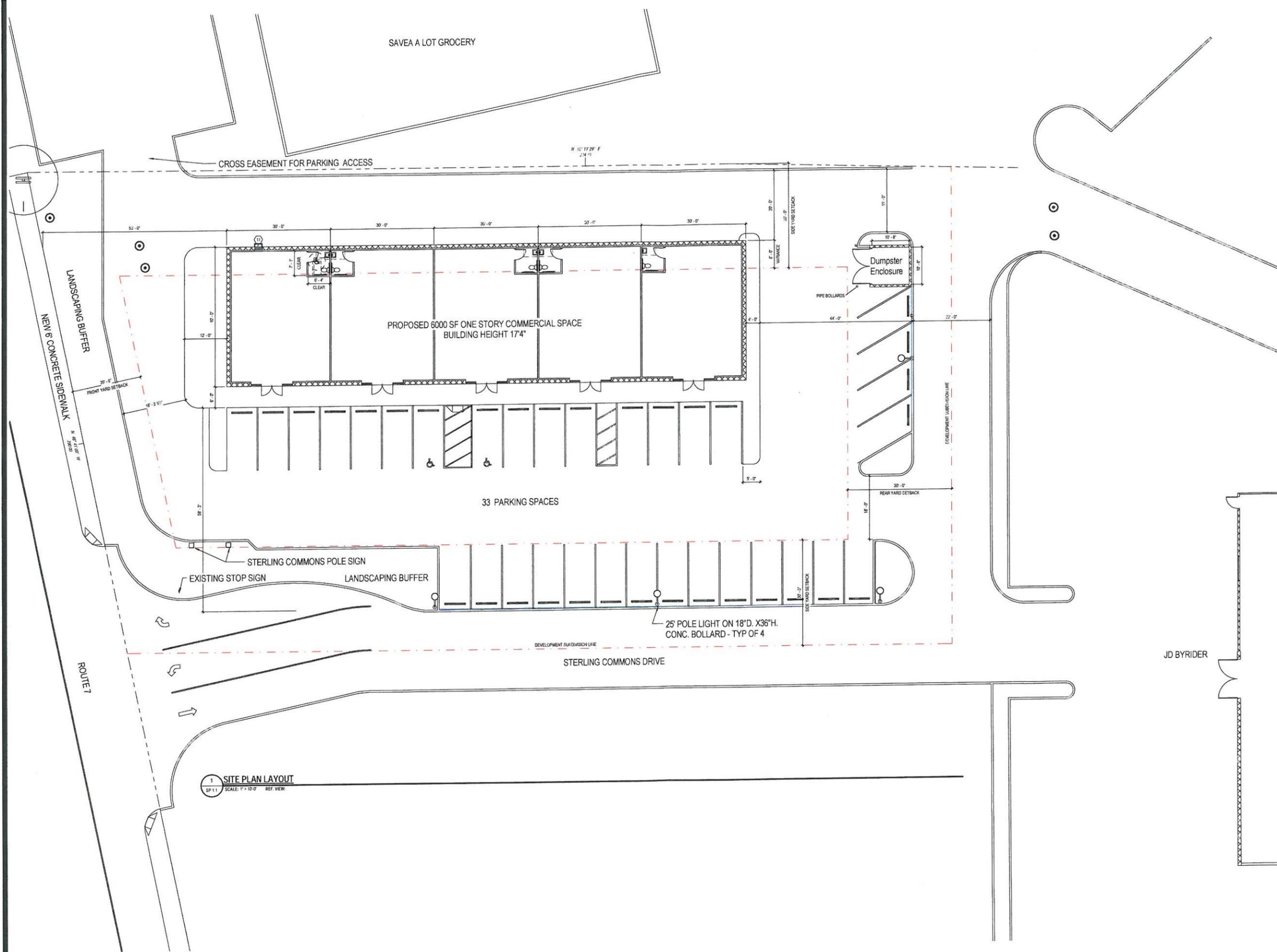
DRAWN BY: Author
 PROJECT ISSUE DATE: --
 SHEET ISSUE DATE: 06/19/12

Drawing Revisions	
No.	Date

ARCHITECT PROJECT NUMBER: --
 ARCHITECT CAD NUMBER: -- SP 11

APPROVED DRAWING USE:

- DESIGN DEVELOPMENT
- PROGRESS
- PERMIT ACQUISITION
- FOR BIDDING
- CONSTRUCTION DOCUMENT



1 SITE PLAN LAYOUT
 SP 1.1 SCALE: 1" = 10'-0" REF. VIEW:

JD BYRIDER